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COMMITTEE ON APPLICATIONS FOR REVIEW OF
ADMINISTRATIVE TRIBUNAL JUDGEMENTS
Forty-seventh session
Applications Nos. 105, 106, 107, 108,
109 and 110

ADMINISTRATIVE TRIBUNAL JUDGEMENTS NO. 738: NKUBANA AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS; NO. 700: BENTHIN AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS; NO. 740: PAPPAS AGAINST THE SECRETARY-GENERAL OF THE UNITED NATIONS; NO. 741: MIKDASHI AGAINST THE COMMISSIONER-GENERAL OF THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST; NO. 737: MUSEIBES AGAINST THE COMMISSIONER-GENERAL OF THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST; NO. 745: HUZEIMA AGAINST THE COMMISSIONER-GENERAL OF THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST

Report of the Committee

Rapporteur: Ms. Elizabeth WILMSHURST (United Kingdom of Great Britain and Northern Ireland)

I. INTRODUCTION

1. At its forty-seventh session, the Committee on Applications for Review of Administrative Tribunal Judgements, established under article 11 of the statute of the Administrative Tribunal, considered the following applications:

(a) Application of Mr. Nkubana for a review of Administrative Tribunal Judgement No. 738 - Nkubana v. the Secretary-General of the United Nations;

(b) Application of Ms. Benthin for a review of Administrative Tribunal Judgement No. 700 - Benthin v. the Secretary-General of the United Nations;

(c) Application of Ms. Pappas for a review of Administrative Tribunal Judgement No. 740 - Pappas v. the Secretary-General of the United Nations;

(d) Application of Ms. Mikdashi for a review of Administrative Tribunal Judgement No. 741 - Mikdashi v. the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East;

(e) Application of Mr. Museibes for a review of Administrative Tribunal Judgement No. 737 - Museibes v. the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East;

(f) Application of Mr. Huzeima for a review of Administrative Tribunal Judgement No. 745 - Huzeima v. the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

2. Meetings of the Committee were held on 26 June 1996.

II. COMPOSITION OF THE COMMITTEE AND ORGANIZATION OF THE SESSION

3. The Committee, under paragraph 4 of article 11 of the statute of the United Nations Administrative Tribunal, is composed of the Member States the representatives of which have served on the General Committee of the most recent regular session of the General Assembly (fiftieth session), namely, at this time: Albania, Algeria, Belgium, Bhutan, Bolivia, China, Congo, Costa Rica, Denmark, France, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Mali, Mauritania, Mauritius, Mongolia, Namibia, Nicaragua, Portugal, Russian Federation, Saint Lucia, Thailand, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen.

4. Mr. Jørgen Molde (Denmark) and Ms. Elizabeth Wilmshurst (United Kingdom of Great Britain and Northern Ireland), elected respectively as Chairman and as Rapporteur at the forty-sixth session, continued to serve in those capacities at the forty-seventh session of the Committee.

III. APPLICATIONS BEFORE THE COMMITTEE AND THEIR CONSIDERATION

5. On 4 March 1996, the Committee received, through its Secretary, an application from Mr. Nkubana requesting a review of Judgement No. 738 rendered by the United Nations Administrative Tribunal on 21 November 1995 in the case of Nkubana against the Secretary-General of the United Nations. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in French, was translated into the other languages of the General Assembly. Thereafter, on 22 May 1996, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.292) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/738).

6. Written comments of the respondent, submitted with respect to the application of Mr. Nkubana in accordance with article V, paragraph 1, of the

rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.293.

7. The Committee considered the application of Mr. Nkubana at its closed meeting held on 26 June 1996.

8. The Committee decided without a vote that there was not a substantial basis for the application under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 738 delivered by the United Nations Administrative Tribunal in the case of Nkubana against the Secretary-General of the United Nations.

9. On 10 April 1996, the Committee received, through its Secretary, an application from Ms. Benthin requesting a review of Judgement No. 700 rendered by the United Nations Administrative Tribunal on 28 July 1995 in the case of Benthin against the Secretary-General of the United Nations. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 22 May 1996, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.294) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/700).

10. Written comments of the respondent, submitted with respect to the application of Ms. Benthin in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.295.

11. The Committee considered the application of Ms. Benthin at its closed meeting held on 26 June 1996.

12. The Committee decided without a vote that there was not a substantial basis for the application under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 700 delivered by the United Nations Administrative Tribunal in the case of Benthin against the Secretary-General of the United Nations.

13. On 29 March 1996, the Committee received, through its Secretary, an application from Ms. Pappas requesting a review of Judgement No. 740 rendered by the United Nations Administrative Tribunal on 22 November 1995 in the case of Pappas against the Secretary-General of the United Nations. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 22 May 1996, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.296) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/740).

14. Written comments of the respondent, submitted with respect to the application of Ms. Pappas in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.297.

15. The Committee considered the application of Ms. Pappas at its closed meeting held on 26 June 1996.

16. The Committee decided without a vote that there was not a substantial basis for the application of Ms. Pappas under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 740 delivered by the United Nations Administrative Tribunal in the case of Pappas against the Secretary-General of the United Nations.

17. On 1 April 1996, the Committee received, through its Secretary, an application from Ms. Mikdashi requesting a review of Judgement No. 741 rendered by the United Nations Administrative Tribunal on 22 November 1995 in the case of Mikdashi against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The application of Ms. Mikdashi did not comply with the requirements set forth in article II, paragraph 2, of the rules of procedure of the Committee. Therefore, as provided for in article III, paragraph 2, and article XIII, paragraph 1 (a), of the rules of procedure of the Committee, on 1 April 1996 the application was returned to the applicant with a request that it be corrected and resubmitted within three weeks from the date of its return. A corrected application of Ms. Mikdashi, dated 17 April 1996, was received by the Secretary of the Committee on the same date. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 22 May 1996, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.298) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/741).

18. Written comments of the respondent, submitted with respect to the application of Ms. Mikdashi in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.299.

19. The Committee considered the application of Ms. Mikdashi at its closed meeting held on 26 June 1996.

20. The Committee decided without a vote that there was not a substantial basis for the application of Ms. Mikdashi under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 741 delivered by the United Nations Administrative Tribunal in the case of Mikdashi against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

21. On 3 April 1996, the Committee received, through its Secretary, an application from Mr. Museibes requesting a review of Judgement No. 737 rendered by the United Nations Administrative Tribunal on 21 November 1995 in the case of Museibes against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The application of Mr. Museibes did not comply with the requirements set forth in article II, paragraph 2, of the rules of procedure of the Committee. Therefore, as provided for in article III, paragraph 2, and article XIII, paragraph 1 (a), of the rules of procedure of the Committee, on 3 April 1996 the application was returned to the applicant with a request that it be corrected and resubmitted within three weeks from the date of its return. A corrected application of Mr. Museibes, dated 13 April 1996, was received by the Secretary of the Committee on 15 April 1996. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 22 May 1996, in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.300) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/737).

22. Written comments of the respondent, submitted with respect to the application of Mr. Museibes in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.301.

23. The Committee considered the application of Mr. Museibes at its closed meeting held on 26 June 1996.

24. The Committee decided without a vote that there was not a substantial basis for the application of Mr. Museibes under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 737 delivered by the United Nations Administrative Tribunal in the case of Museibes against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

25. On 20 March 1996, the Committee received, through its Secretary, an application from Mr. Huzeima requesting a review of Judgement No. 745 rendered by the United Nations Administrative Tribunal on 22 November 1995 in the case of Huzeima against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The application of Mr. Huzeima did not comply with the requirements set forth in article II, paragraph 2, of the rules of procedure of the Committee. Therefore, as provided for in article III, paragraph 2, and article XIII, paragraph 1 (a), of the rules of procedure of the Committee, on 1 April 1996 the application was returned to the applicant with a request that it be corrected and resubmitted within three weeks from the date of its return. A corrected application of Mr. Huzeima, dated 17 April 1996, was received by the Secretary of the Committee on 18 April 1996. In accordance with article III, paragraph 1, of the rules of procedure of the Committee, the application, which had been submitted in English, was translated into the other languages of the General Assembly. Thereafter, on 22 May 1996,

in accordance with the same rules of procedure, the application was communicated in the form of a document (A/AC.86/R.302 and Corr.1) to all members of the Committee, as well as to the parties to the proceedings before the Administrative Tribunal, together with a copy of the judgement of the Administrative Tribunal (AT/DEC/745).

26. Written comments of the other party to the proceedings before the Administrative Tribunal, submitted with respect to the application of Mr. Huzeima in accordance with article V, paragraph 1, of the rules of procedure of the Committee, were circulated to all members of the Committee in document A/AC.86/R.303.

27. The Committee considered the application of Mr. Huzeima at its closed meeting held on 26 June 1996.

28. The Committee decided without a vote that there was not a substantial basis for the application of Mr. Huzeima under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgement No. 745 delivered by the United Nations Administrative Tribunal in the case of Huzeima against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

29. In accordance with article VIII, paragraph 4, of the rules of procedure of the Committee, the decisions of the Committee with regard to the applications of Mr. Nkubana, Ms. Benthin, Ms. Pappas, Ms. Mikdashi, Mr. Museibes and Mr. Huzeima were formally announced by the Chairman at the meeting of the Committee, held in public on 26 June 1996.

30. At the end of the public meeting of the Committee, the Chairman recalled that at its fiftieth session the General Assembly had adopted resolution 50/54 of 11 December 1995, in which it had amended the statute of the Administrative Tribunal of the United Nations with respect to judgements rendered by the Tribunal after 31 December 1995 and had deleted article 11 containing provisions relating to the establishment and functioning of the Committee on Applications for Review of Administrative Tribunal Judgements. At its forty-seventh session, the Committee considered the last set of applications submitted to it with respect to judgements rendered by the Tribunal before 1 January 1996. The Chairman, therefore, pointed out that pursuant to resolution 50/54 with the conclusion of its forty-seventh session the Committee ceased to exist.